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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,714	06/25/2001	Johan Smets	CM2380	8782

27752 7590 02/28/2002

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[REDACTED] EXAMINER

KUMAR, PREETI

ART UNIT	PAPER NUMBER
1751	6

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

NIF-6X

Office Action Summary	Application No.	Applicant(s)
	09/888,714	SMETS ET AL.
Examiner	Art Unit	
Preeti Kumar	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 June 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 are pending.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on a prior foreign application US00/18119 filed on June 30, 2000. It is noted, however, that applicant has not filed a certified copy of the US00/18119 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 7-11, the instant claims are written as alternative expressions. Alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims. One acceptable form of alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B, and C." See *Ex parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925).

Specifically regarding claim 9, this claim is an omnibus type claim. Applicant is not permitted to cite other patents or co-pending applications in the body of the claim. See MPEP, 608.01(i). Applicant is reminded that since applicant did not incorporate the

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EPO and JPO documents by reference, if he/she tries to amend the written description and/or claims to put in the specific agents, then the amendment would constitute new matter.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 11 and 12 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 11 and 12 provide for the use of a cyclodextrin glucanotransferase enzyme, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over von der Osten et al. (US 6,015,783).

Specifically regarding claims 1, 11 and 12, von der Osten et al. teach an improved enzymatic process for cleaning fabric or textile, or bleaching stains present on cellulosic fabric. In Detergent Example IV (col.25, ln.35-65), von der Osten et al. illustrates a detergent composition comprising a cyclodextrin, glucanotransferase enzyme, a nonionic surfactant (coco-alkyl dimethyl hydroxyethyl ammonium chloride), a protease, and a bleaching agent (TAED).

Specifically regarding claims 2-4 and 10, von der Osten et al. teach useful amylolytic enzymes are CGTases (cyclodextrin glucanotransferases), such as those obtainable from species of *Bacillus*, *Themoanaerobacter* or *Thermoanaerobacterium*. See col.6, ln.40-45. von der Osten et al. also teach the utility of lipases and alpha or beta amylase in the detergent composition at a level of from 0.0001% to 2% of enzyme protein by weight of the composition. See col.18, ln.10-40.

Regarding claims 5 and 6, the examiner asserts that *starch binding domains* are equivalent to carbohydrate binding domains since starch is a carbohydrate polymer. von der Osten et al. describes the utility of cellulases which are cellulolytic enzymes commonly referred to as "cellulose binding domains". von der Osten et al. teach that most of the known CBDs are derived from cellulases and xylanases. See col.2, ln.30-65. In example IV, von der Osten et al. illustrate a detergent composition comprising a starch binding domain, such as, sodium carboxymethyl cellulose (CMC). See Detergent Example IV col.25.

Regarding claim 7, von der Osten et al. teach the preference of nonionic surfactants such as polyethylene oxide condensates of alkyl phenols. In example IV, von der Osten et al. teach the use of a nonionic surfactant (coco-alkyl dimethyl hydroxyethyl ammonium chloride). See Detergent Example IV col.25.

Regarding claim 8, von der Osten et al. teach hydrogen peroxide releasing agents can be used in combination with bleach activators such as tetraacetylenediamine (TAED) or nonanoyloxybenzenesulfonate (NOBS). See col.19, ln.59-65. and Detergent Example IV col.25.

Regarding claim 9, von der Osten et al. also teach the utility of alkaline proteases such as subtilisins, more specifically *Bacillus subtilisin* 309. See col.6 ln.50-60.

von der Osten et al. do not specifically teach a detergent composition comprising a cyclodextrin glucanotransferase enzyme, a nonionic surfactant, a protease, a bleaching agent and the other requisite components of the composition in the specific proportions as recited by the instant claims.

However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a detergent composition comprising a cyclodextrin glucanotransferase enzyme, a nonionic surfactant, a protease, a bleaching agent and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success, because von der Osten et al. suggest a detergent composition comprising a cyclodextrin glucanotransferase enzyme, a nonionic surfactant, a protease, a bleaching agent and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 703-305-0178. The examiner can normally be reached on M-F 9:00am - 5:30pm.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

**GREGORY DELCOTTO
PRIMARY EXAMINER**

Preeti Kumar
Examiner
Art Unit 1751

PK
February 19, 2002

